

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SENTENCING MEMORANDUM

Case No: 19-CR-00243-WMS-1

TORIN J. FINVER,

Defendant.

Dated: Buffalo, New York
June 17, 2020

Respectfully submitted,

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INTRODUCTION

On December 18, 2018, Torin Finver (“Dr. Finver”) was charged with Importation of Controlled Substances in violation of 21 U.S.C. § 952. On January 17, 2020, Dr. Finver pled guilty to count one of an Information charging a violation of 21 U.S.C. §§ 952(a), 960(a)(1), and 960(b)(3). Dr. Finver is currently scheduled to appear before the Honorable William M. Skretny for sentencing on June 24, 2020. This memorandum is submitted on Dr. Finver’s behalf in an effort to provide the Court with an accurate depiction of his personal history and moral character. We respectfully request that this Court sentence Dr. Finver to time served.

DR. FINVER’S PERSONAL HISTORY

By way of background, Dr. Finver was born in Chisholm, Minnesota on July 31, 1964 to Alan Cianni and Rhona Bittle. Ms. Bittle is seventy-four years old and lives in Briarcliff Manor, New York. Mr. Cianni passed away in 2012 as a result of heart disease. Dr. Finver has one sister, Hillary Landau, age fifty-three, who also lives in Briarcliff Manor, New York.

Dr. Finver faced considerable childhood adversity, beginning with surgery for a club foot when he was just one year old. The surgery required follow-up for several years. Because the family had little money, they relied heavily upon Dr. Finver’s Grandmother for support. His grandmother’s controlling nature eventually forced Dr. Finver’s biological Father to leave the family.

When Dr. Finver was six years old, his Mother re-married to Morten Finver, who adopted Dr. Finver and his sister, Hillary. During this time, the family lived in Queens, New York City, New York. His Grandmother owned several apartment buildings in Queens and Brooklyn, where Dr. Finver resided until he was sixteen; he returned home one day only to find that he had been evicted. Dr. Finver moved from Flushing to Jackson Heights after graduating from

Highland High School in 1982. At that time, his adoptive Father worked as a real estate broker, while his Mother managed dental offices.

Dr. Finver's parents soon moved to Westchester County, NY, just north of New York City. Dr. Finver left home to attend Duke University in 1984, where he spent two and a half years. After joining a fraternity, his drug use intensified and his grades suffered. Dr. Finver left Duke University before graduating, and renewed his studies at Pace University in New York City. After attending classes and studying each morning, Dr. Finver worked in a medical laboratory in the afternoon and evening. While at Pace, Dr. Finver befriended a classmate who introduced him to martial arts. Dr. Finver tutored his classmate, who provided martial arts lessons in return. Despite his family and personal struggles, martial arts helped to get Dr. Finver's life back on track. He continued to study martial arts through his time in medical school, but was unable to continue during his residency due to the high work load.

In 1989, Dr. Finver enrolled in Albany Medical School. One week before he began his studies, his mother informed him that she was filing for divorce. Dr. Finver stayed in touch with his adoptive father for approximately six months, but the two eventually stopped communicating. Dr. Finver's studies progressed nonetheless, and during his fourth year at Albany Medical School, it became time to choose a residency. With an interest in cochlear implants, Dr. Finver worked toward an ear, nose, and throat residency. After completing nine interviews without a call back, and no clear second choice in mind, he became despondent. Dr. Finver finally decided to pursue a residency in internal medicine at Albany Medical Center, but suffered from depression due to his inability to secure an ear, nose, and throat residency. He began to isolate himself and felt angry and withdrawn. While working through several fellowships and his residency, Dr. Finver began using crack cocaine more heavily. In 1996 Dr. Finver was arrested

on a drug charge. Shortly before his arrest, Dr. Finver found a job in private practice at Vassar Brothers Medical Center in Poughkeepsie, NY. Due to the arrest, he was never able to start working.

The Office of Professional Medical Conduct (“OPMC”) suspended Dr. Finver’s license for one year, and continued to monitor Dr. Finver’s drug use. After completing rehabilitation at Hazelden Treatment Addiction Center in Minnesota, Dr. Finver returned to Syracuse in 1999 where he worked in a computer store. While in recovery, Dr. Finver met a local anesthesiologist who introduced him to the Guthrie Clinic, where Dr. Finver eventually completed his residency in family medicine in 2001. In 2002, Dr. Finver passed his boards, and was put in a great position to further his career in medicine. An opening emerged in private practice at an office in Ithaca, NY, and Dr. Finver took the position. Dr. Finver’s life continued on this upward trend as he welcomed the birth of his daughter, Hollace, in 2004 with his now ex-wife Rachael Hutchinson. Unfortunately, as Dr. Finver’s drug monitoring through OPMC became more lax, he began to fall back into his drug habit.

Approximately one year after the birth of his daughter, Rachael discovered his drug use and left with Hollace. Around late 2008 or early 2008, Dr. Finver’s license was suspended for two years by OPMC due to his drug use. While undergoing treatment, Dr. Finver experienced monetary issues resulting from payments for treatment and his inability to find employment. After several issues with treatment centers due to these concerns, Dr. Finver was placed at Talbott Recovery Campus in Atlanta, GA. There, he met director Paul Early, who established the Physicians Health Program in Georgia, which focuses on the wellbeing of fellow physicians. Through Paul Early, after regaining his license in 2013, Dr. Finver later found a fellowship in the addiction prevention field in Buffalo. After passing his boards, Dr. Finver became a fellowship

director in Buffalo and has worked to develop programs for training in chemical addictions. With the growing addiction epidemic, Dr. Finver hopes that every medical school will offer an addiction prevention in the future to help combat the physical and mental health issues which stem from addiction.

Over the past five years, Dr. Finver has caught up on child support arrears and established a friendly relationship with Rachael. Using his extensive knowledge of addiction gathered through both his own personal issues as well as his career in medicine, Dr. Finver hopes to one day overhaul the New York State addiction recovery system, which he believes is too harsh in its current format and drains the hope from recovering addicts rather than providing a real path to recovery.

To date, Dr. Finver has spent 226 days in custody at Niagara County Jail. During that time, the COVID-19 pandemic has infected over 7,273,958 people worldwide, resulting in 413,372 deaths.¹ Dr. Finver suffers from a pre-existing condition; asthma, which places him at greater risk of hospitalization and death should he become infected with COVID-19. (*See Pre-Trial Services Report.*) Dr. Finver's Sentencing Guideline Range is 0-6 months, or approximately 0-182 days. At the time of sentencing, Dr. Finver will have spent 234 days in custody – fifty-two days more than the maximum Guideline sentence (not including good behavior).

ACCEPTANCE OF RESPONSIBILITY

Dr. Finver pled guilty count one of the Information, and accepts full responsibility for his actions. He has been open and honest about the offense with those close to him, has shown

¹ *Situation Report – 143*, https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200611-covid-19-sitrep-143.pdf?sfvrsn=2adbe568_4, WHO (last visited June 12, 2020).

appropriate remorse for his actions, and greatly regrets the impact that his actions have had on others. The letters of support from his friends and family that follow reflect the acceptance of responsibility and overwhelming remorse that Dr. Finver feels with respect to the instant case.

LETTERS OF SUPPORT

Dr. Finver has earned the respect of friends, colleagues, and those that he has assisted in the medical field through his hard work and dedication. The letters, attached hereto as **Exhibit A**, attest to Dr. Finver's character, friendship, and willingness to help others. The content of these letters include the following:

We are writing this letter as Torin's loving parents (Peter for the past 24 years). Torin is a brilliant physician, a dedicated father of a 14 year old daughter and a recovering substance abuser. There is no question in our minds that Torin will once again access professional help and understanding to become an asset to whatever community he may serve in the future. He has a brilliant and inquisitive mind and a unique ability to connect with and to assist others suffering with addiction. We pray that he will have the opportunity to once again make meaningful contributions and to be able to guide his bright beautiful daughter, Hollace, through her teenage years into adulthood with pride in herself and her father who loves her dearly. While we understand the gravity of his offense, we believe with support and treatment he can once again attain recovery.

-- Rhona and Peter Bittle, parents

I'm fortunate to call Torin my brother. He is unapologetically and humbly unique—a true renaissance man, Torin knows more about more subjects than anyone I've met and always looks to learn more. Aside from being a gifted and insightful physician, he's an incredible cook, learned yogi, avid outdoorsman, talented writer, and audiophile who collects music, plays instruments and builds speakers.

Sadly, Torin's dedication to his patients and inability to set limits on his employers resulted in this relapse. When Torin is healthy, I know that he would never knowingly look to break the law. Torin risks losing everything right now – his daughter, his medical license, his financial security, and his freedom. These are all things that he has fought hard to get back over the past 10 years since he last relapsed. I truly hope he has the opportunity to, once again, work toward getting his life back. He has so much to offer and so much more to learn.

-- Hillary Finver Landau, sister

I have known Torin for over 10 years in several capacities and notably as a colleague. In my current position, I manage all physicians in Georgia who have substance use disorders and, along with their treating physicians, make decisions as to whether or not a physician has the privilege of practicing medicine in my state. If allowed to remain free of prison, [Dr. Finver] would be in a strict monitoring program in the physician addiction monitoring program, called the Committee for Physician Health of New York State.

Dr. Finver served his community for many years. He was well liked in his community and in the American Society of Addiction Medicine. He is an astute clinician and has been a reference source for me. Surely society is best served by him remaining available as a consultant and even hopefully as a clinician in helping stem the tide of the national crisis in its current form – the opioid use disorder epidemic. I urge the court to consider the overall health of society in this case.

-- Dr. Paul H. Earley, MD, friend and colleague

I've known Torin for the past nineteen years. We met in 2000, were married in 2002, had a daughter in 2004, and I filed for divorce in 2007 because of issues surrounding his drug abuse and addiction. Since our divorce in 2008, Torin has maintained fairly regular visitation with our daughter and I've watched him rebuild his life. It has been quite a journey to know Torin through two drug relapses. The first drug relapse was during our marriage. It took a long time and multiple drug rehabilitation centers, but Torin began to turn his life around and I saw the person I once knew slowly re-emerge. I was blindsided by Torin's most recent relapse along with the charges he faces. I don't know what the future holds for him, but I do know that the part of him that has control over his addiction makes good life choices and will work to overcome the events of this recent relapse. He's one of the hardest working people I know.

-- Rachael Hutchinson, former wife

I know my nephew very well, I was 15 years old when he was born. We sort of grew up together. Torin is a man who understands what drugs have brought to his life. It has happened before. He will get past it. He is a son, a friend, a nephew, a father, a doctor, a patient, and a wonderful human being. I hope Torin can find some safe place for solace while waiting for the proceedings to happen, and making a life anew. He knows he has his family. That will never change.

-- Polly Harris, aunt

I've known Torin for about 15 years, initially as his patient at Family Medicine Associates in Ithaca. At that time I found Torin to be a compassionate, competent, physician. About 12 years ago, I observed Torin suffer a tragic lapse to addiction and mental health problems. Since that time Torin and I became friends. I have observed Torin work to regain his medical license and become a respected and productive addiction medicine specialist in Buffalo, NY. I sincerely believe that Torin can return to responsibility and productivity again, if he is afforded the opportunity.

-- Michael J. Pichel, Esq., friend

I have known Dr. Finver for a decade on both a professional and personal basis. During that time, I have come to trust Dr. Finver as a colleague on whom I can rely for the best professional advice. I have also relied on him as a friend in recovery from addiction himself, as someone with whom I can share personally. Dr. Finver has helped countless patients through his direct care, saved lives and relieved suffering from the disease of addiction for both the patients and the people who love them. He has been living proof that recovery is possible. He has been a respected and active member of the recovery community in the Buffalo area, and has carried the message in those circles as well.

-- Dr. Charles W. Morgan, MD, colleague and friend

I have known Dr. Finver since we recruited him to a fellowship position in Addictions Medicine in July of 2013. Dr. Finver, in discharging these responsibilities, demonstrated professionalism, concern, empathy, and consistent attention to the needs of his patients and learners. I was most pleased to support Dr. Finver as he worked his way through a number of challenges to regain his professional standing and certifications. I know he harbors deep and intense regret for his behavior, which has harmed him, his family, his community, and removed him from the work in which he so diligently applied himself. Although he may never be granted medical licensure, I know he will seek some role where he can apply his expertise and caring for the benefit of others.

-- Dr. Daniel Morelli, MD, colleague and friend

I first met Torin Finver on March 7, 2013 when he came to interview for a fellowship position with us. I liked him as soon as I met him. He is a very outgoing, friendly person. I knew he would fit right in with our program and be an asset to our community. He is loved by his patients and was always there to help anyone who needed him. He worked hard to get to where he was and I know he disappointed himself and will work hard to get back to that point in his life. I believe our community truly benefited from having Dr. Finver to educate and help them with their own life obstacles, and hope he is able to continue to help them.

-- Donna Colucci, colleague

I have known Dr. Finver for about 6 years, both in professional and recovery contexts. He was always a clear voice for recovery and for the effective and compassionate treatment of patients with substance use disorders. He is a brilliant man and prior to his relapse he helped many, probably thousands, of patients recover from addictions. I would respectfully ask that his prior track record, his considerable efforts in the past to do the right thing, his extraordinary accomplishments in terms of the number of patients that he helped, and the many lives that he saved, could be taken into account as possible mitigating factors.

-- Dr. Arthur Weissman, MD, friend

I have known Torin for about 11 years as his sponsor in AA and as a friend. Over that time I have seen him diligently do the work to not only get sober, but return to the practice of medicine after five years without a medical license, and as the result he has great patience. In the past five years he returned to New York to learn and practice addiction medicine, for which he showed a great enthusiasm. I know Torin has a great deal to contribute to the community as well as to his career if he is allowed the opportunity.

-- Mark Alexander, friend

Dr. Torin Finver was instrumental in hiring me for my first physician job out of residency training starting 9/2017. I worked closely with Torin for 1 year and over that time, he trained me in the field. Torin has worked tirelessly and with singular focus for his patients and employers, often being on call on weekends and overnights. I believe he overworked himself and this played a role in his mental health and relapse. I have known Torin to be extremely dedicated and passionate about his work and patients. To become an expert in any field one needs to enlist the help of a mentor. Torin has been and continues to be that person for me.

-- Dr. Philip J. Carriere, MD, colleague and mentee

I have known Dr. Finver since mid-2014 when he was referred to me as a possible consultant to resume medical directorship of our newly acquired crisis stabilization and detox facility. Dr. Finver worked at [the facility] from July 1, 2014 up to his arrest in December of 2018. In the days that followed his arrest I had occasion to speak with Dr. Finver about how all of this happened. I do believe that Dr. Finver is sincerely remorseful for his actions as they are inconsistent with his clear intent to live his life in recovery and to help others.

-- Paige K. Prentice, MM, colleague

I met [Dr. Finver] 2 years ago at Horizon Terrance House. It was my first night of detox. I have been his patient ever since. I have been clean and sober for over 2 years now. He is a big reason I am clean today. I trust him and he has always guided me in the right direction. When I heard the news I cried my eyes out because he was always there for me and I wish someone would have been there for him.

-- Jenna Klesic, former patient

I have known and worked with Torin Finver since 2003. We have worked together as clinicians at Horizon Health Services, and as medical educators at the University at Buffalo. I have known Dr. Finver to be a compassionate and thoughtful physician. He has always treated his patients with a great deal of empathy and respect. He has been instrumental in my own development as a physician treating patients with addiction. I

believe that Torin is remorseful for his actions. I look forward to his restored health, and to welcoming him back as a colleague and a contributing citizen.

-- Dr. Andrew Symons, MD, colleague

I have known Dr. Finver since October of 2015, when Dr. Finver was fellowship director of the UBMD FM AM Department. During these years of knowing Dr. Finver, I observed that he is a very knowledgeable, dedicated, and a caring physician not only towards his patients, but also to his fellow colleagues. His talent in Addiction Medicine and Family Medicine was a great asset to the community. I do see that Dr. Torin Finver is deeply remorseful for committing the offense. I strongly believe with appropriate help and treatment, Dr. Finver can still be a great asset to the community, especially in Addiction because of his real life experiences.

-- Dr. Darren Alicandri, MD, colleague

I first met Dr. Torin Finver during my interview for the Addiction Medicine Fellowship at UB in the winter of 2014. I immediately knew that I wanted him to train me in how to treat patients struggling with the disease of addiction. When I heard him talk to patients about their character defects and struggles in such a genuine way, I thought to myself, "That is powerful! I want to do that someday." He taught me how to connect with patients in a meaningful way and motivate them to move towards a more fulfilling life. Through his individual efforts and ability to connect people, he has engaged the Buffalo community in empathizing and striving to be better the lives of our patients with addiction. I know that he is genuinely remorseful of his actions and wants to continue to make positive changes for himself and his community in the future.

-- Dr. Sarah Abdelsayed, MD, colleague

I worked with Torin Finver for several years at Horizon Health Services. In that time, Torin Finver helped countless members of our community while they were in the most difficult periods of their lives. Torin was a large factor in numerous people's recovery and had a powerful impact in many of our patients' lives. One thing that Torin would always impart on our patients was a sense of accountability for their actions and behaviors. I know Torin takes full responsibility for what he did and will use this opportunity to better himself.

-- Brian Murray, colleague

I have known Dr. Finver since he arrived in Western New York in the Spring of 2013 as an Addiction Medicine Fellow and have worked closely with him in academic, clinical, administrative and social settings since that time. I know first-hand Dr. Finver's commitment and dedication to improving the field of addiction medicine and the lives of his patients. The impact he has had on his patients cannot be understated – it is without exaggeration to say I have long ago lost count of the number of patients that have said to me over the past four months, "Dr. Finver saved my life."

-- Dr. Joseph V. Mure, MD, colleague

I am personally very grateful that Torin Finver was willing to be a mentor to me as I learned how to medically manage people that are struggling with addictions. Torin has made an impact on our region over several years of educating healthcare providers, students and the community on understanding and treating people with addictions, helping to rid the stigma. I consider Torin to be a friend, colleague and truly caring and gifted person. I am convinced and hopefully that he can continue to make a difference in the lives of people that struggle with addictions.

-- Darren M. Caparaso, MD, colleague and friend

I was responsible for the admittance of Torin Finver to the Addiction Medicine Fellowship at State University of New York at Buffalo. During my association with him, he was always honest, open and forthcoming about his mental health and addiction challenges. He was always working to improve himself and the care for patients. I was so impressed by Torin that upon my departure from The University at Buffalo, I recommended him to replace me as fellowship director. He assumed this role and far surpassed anything that I could have done.

I have spoken with Torin since his arrest. During our conversations, he was genuinely regretful and sorry for all that he had done. He has expressed to me a desire to correct the wrongs he has committed. In closing, I support Torin Finver through his ordeal and request [that you] consider all the lives that Torin has saved, the people he has returned to be useful members of society, the support for the community he has served and his humility in acceptance of his consequences.

-- Lorne R. Campbell, Sr., MD, colleague

CONCLUSION

Dr. Finver is a truly gifted and selfless individual who suffers from the very illness he has worked so hard to combat. His tireless dedication to patients struggling with addiction has resulted in countless success stories in the Western New York community and elsewhere. He makes no excuses for his conduct, but hopes to once again work toward rebuilding his life so that he may once again be in a position to help others. This community would benefit greatly from placing Dr. Finver in a position where he is able to help those struggling with their own addiction issues in the future. The letters from friends, colleagues, and patients exemplify Dr. Finver's

true character, which must be defined not only by his failures, but also his great work and success within this community.

DATED: Buffalo, New York
June 17, 2020

Respectfully submitted,

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/s/Barry Nelson Covert

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